

# Notice of Allowability

Application No.

09/914,508

Examiner

Michail A Belyavskiy

Applicant(s)

SESHI, BEERELLI

Art Unit

1644

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/21/04.
2. ☒ The allowed claim(s) is/are 63-69, 72-79, 82-95 and 98-100.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                       |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|   | 9. <input type="checkbox"/> Other _____.  |

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### DETAILED ACTION

1. Applicant's amendment, filed 10/21/04 is acknowledged.
2. Claims 63 –69, 72-79, 82-95 and 98-100 are pending and allowed.

### EXAMINER'S AMENDMENT

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.
3. Authorization for this Examiner's Amendment was given in a telephone interview with Glenn P. Ladwig on 11/22/04 .

#### In the Claims:

4. Claims 70, 71, 80, 81, 96 and 97 have been canceled.
5. In claim 63 , the phrase “ wherein said cell is obtained directly from a primary Dexter cell culture ” has been added following the phrase “An isolated pluri-differentiated mesenchymal progenitor cell, ”.
6. In claim 73 , the phrase “ wherein said cells are obtained directly from a primary Dexter cell culture ” has been added following the phrase “A pharmaceutical composition comprising isolated pluri-differentiated mesenchymal progenitor cells, ”.
7. In claim 87 , the phrase “ wherein said plurality of cells are obtained directly from a primary Dexter cell culture ” has been added following the phrase “A plurality of isolated pluri-differentiated mesenchymal progenitor cell, ”.

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### REASONS FOR ALLOWANCE

8. The following is an Examiner's Statement of Reasons for Allowance:

9. The Examiner's Amendment set forth supra, in conjunction with Applicant's amendment filed 10/21/04 and declaration filed under 37 CFR 1.132 by Dr. Seshi on 03/12/04 have obviated the rejections of record in the previous Office Action mailed on 06/17/04. Said declaration indicated that the cells of the invention are novel and non-obvious over the prior art because the cells of the invention were obtained using the Dexter culture system i.e. the conditions necessary to induce the pluripotent cells or their progeny to simultaneously express, at the protein level, at least four different mesenchymal lineage-specific markers.

10. The prior art does not teach or suggest an isolated pluri-differentiated mesenchymal progenitor cell wherein said cell is obtained from a Dexter primary cell culture and simultaneously expresses, at the protein level, at least four different mesenchymal lineage-specific markers as recited in claims 63-69, 72-79, 82-95 and 98-100.

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michail Belyavskiy whose telephone number is 571/ 272-0840. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:30 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571/ 272-0841.

The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 22, 2004

  
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